

9/21/08

Avoided Forest Conversion through On-Site Clustering and Transfer of Development Rights Program

I. On-Site Clustering

The Forestry Working Group recommends that an avoided conversion offset or credit be created for on-site clustering that results in permanent protection of working or conservation forest land. The offset or credit would be available to forest landowners and would be based on the difference in the amount of forestland (carbon) lost per housing unit based on development under a business as usual (BAU) scenario allowable under local zoning and development regulations and voluntary "clustered" development that would accommodate the same (or in the case of Urban Growth Areas (UGA) possibly some cases greater) number of housing units on a smaller footprint. The offset or credit would be awarded based on the following conditions:

1. The offset or credit should be limited to forested tracts in areas other than those designated "resource lands" under the Growth Management Act (GMA). Clustered development proposals involving GMA-designated forest lands or other GMA-designated resource lands of long-term significance would not be eligible for an offset or credit.
2. Within rural areas, credit awarded for clustering would not increase based on the number of developable lots provided in local zoning or and through the application of local development regulations and physical criteria. To the extent that the number of lots is increased in the clustered development, the carbon credit awarded will be reduced in proportion to the number of additional lots. (For example, if five developable lots are available without clustering, but six lots are developed under a clustered scenario, the credit awarded will be reduced by 1/5.)
3. Forested tracts not developed as a result of the clustering ~~should will~~ be permanently protected with a forest conservation easement or other legal instrument with similar third party enforceability and durability. Such other legal instrument shall have the same effect as a conservation easement, but will avoid the complexity and costs normally associated with such easements. (e.g. donation to a forest land trust).
4. The state and local governments will advertise the availability of the opportunity for carbon offset payments for clustered development. Landowners contemplating clustered development may state their intention to the appropriate organization administering the carbon offset program in order to estimate the potential carbon offset payments that may be available for the intended clustered development. ~~Forested tracts become eligible for the clustered development offset or credit when they are planned for conversion under local development laws. Payment should occur after the clustered development has been completed.~~
5. Forested tracts become eligible for the clustered development offset or credit when the development rights are vested under local development laws. Payment should occur after the clustered development has been completed.

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6. The offset should be based on an estimate of the difference in the actual area likely to be converted between the business as usual scenario and the clustered development scenario, not on the total lot size. The offset credit will be adjusted as provided in section 2 above for bonus lots. Offset credits will also be based on amounts of stored carbon per acre using the appropriate forest management baseline, applied to the difference in converted area (see recommendations on Forest Management).

7. Besides the legal instrument provided for in section 3 above, granting of carbon offsets or other credits for on-site clustering will entail No other restrictions on commercial forest management on the non-developed area result from this action. Further carbon offsets or other credits may be independently obtained for the non-developed area based on forest management which sequesters and stores additional carbon above baseline conditions. (See recommendations for Forest Management.)

~~8. Offset credits will be based on the appropriate forest management baseline (see recommendations on Forest Management).~~

~~9. Further credits for forest management on the non-developed area may be available. See the recommendations on Forest Management.~~

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II. Transfer of Development Rights Program

The Forestry Working Group also recommends that the State develop a program to provide incentives to local jurisdictions that implement a Transfer of Development Rights (TDR) program that reduces pressure for forest conversion within the state and thus statewide GHG emissions from forest conversion. The program would be funded initially through State seed grants to participating cities and counties and later through the issuance and sale by the state of emission reduction credits amassed based on the transfer of development rights from forest land to ~~non-forested~~ land within Urban Growth Areas (UGAs) and the permanent conservation of working or conservation forest land through forest conservation easements. Because the program would be targeted at the county and city level, it would match desired land use outcomes with emission reduction incentives. The state would propose development of this program to support local TDR efforts, in explicit reliance on the ~~expectation of opportunity to receive~~ carbon offset payments for project areas and carbon storage conserved, so as to ensure the project-level TDR transactions actually occur. The program would have the following features:

- I. The State should establish a program that credits emission reductions due to avoided forest conversions achieved through Transfer of Development Rights policies, based on the transfer of development rights (TDR) into Urban Growth Areas (UGAs) where

growth is already expected to occur, to ensure permanent ~~working~~ forest conservation while accommodating displaced development in a smaller carbon footprint.

2. Emission reductions would be credited on a project-by-project basis based on the ~~number of conservation easements created and~~ net carbon storage retained under the program and require: (a) a transfer of development rights from ~~working~~ forest land¹ that is at substantial² risk of conversion, to ~~non-forested~~ land within a UGA; and (b) permanent conservation of the forest land through a forest conservation easement, or other legal instrument with similar third party enforceability and durability.³
3. Local jurisdictions would receive the credit only if they adopt and maintain a Transfer of Development Rights program that meets state standards (see ¶ 6) and can show that the Transfer of Development Rights program is responsible for achieving measurable reductions in the conversion rate that are additional to what would have occurred under a Business As Usual (BAU) scenario. The demonstration of additionality will be made at the county level based on analysis of county-level data, and will be based on reduction in greenhouse gas emissions from ~~“traditional”~~, business-as-usual conversion of the forest land area in the state or local area, to conversion occurring as a result of the TDR program, based on analysis of county-level data. ~~The state will ensure statewide consistency in the conduct of this analysis by performing the analysis or assisting the local jurisdiction in performing the analysis according to state standards.~~ This county-level data analysis should:
 - a. Be based on the best available sources of information, such as including but not limited to a combination of Forest Inventory ~~Assessment Analysis~~ (FIA) data, forest zoning and Current Use Taxation (CUT) data, and parcel-level data currently being developed by UW College of Forest Resources in partnership with the Family Forest Foundation.
 - b. Include information about current zoning, issuance of rural and forest zone building permits or other proxies for establishing background rate of conversion at the county level.
 - c. Separate changes in conversion rates attributable to the TDR program from those attributable to market forces.
 - d. Include information on lot and road clearing generated from BAU rural and forest zone development.
4. The State would bundle aggregate these reductions and sell them as emission reduction credits on the national or international offset market and distribute the revenues back

¹ The incentive for the landowner to avoid conversion would be the revenue received from the sale of the development rights.

² “Substantial” means that ~~the forest area from which development rights are transferred must be physically capable of being converted to development and that~~ the conversion risk must be evident from legal and/or economic indicators and expected to occur in the foreseeable future. ~~However, the forest area should not be located so close to current development that commercial forest management is unlikely due to social forces.~~ Within ~~these~~ limits, local government TDR programs are expected to determine desirable “sending” areas as well as the number of development units to be transferred.

³ ~~As described during the subgroup conference call on 7/28/08, b~~ Both the TDR and the conservation easement would be accomplished in the context of a single transaction. The easement would be a *forestry* conservation easement (allowing any forest practices consistent with other laws). The easement would be perpetual.

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to the participating jurisdictions based on actual development right transfers and associated conservation easements accomplished. The State would also provide seed money to participating jurisdictions, to encourage early adoption while avoiding issuance of credits that are not based on actual conversion avoidance. The source of this seed money would be determined by the state legislature.

5. Participating local jurisdictions shall use program revenue for implementation administration of the TDR transactions program or addressing TDR receiving area needs.
6. Recommended features of Transfer of Development Rights program:
 - A. Program requirements and performance standards should promote permanent, verifiable reduction of emissions from forest conversion within participating local jurisdictions. Performance standards should address essential carbon relevant features of a qualified Transfer of Development Rights program and permanent forestry easement, including:
 1. Leakage: demonstration that the displaced development has been accommodated in a smaller carbon footprint.
 2. Permanence: standards for conservation easement language, monitoring and enforcement, and eligible holders.
 3. Additionality: demonstration that the jurisdictions' implementation of Transfer of Development Rights Program are above and beyond BAU, as indicated by county level analysis of BAU forest land conversion rates and reductions in conversion rates and associated carbon emissions attributable to the program. discussed in section 3 above.
 - B. Data needs for jurisdictional reporting requirements of forest conversion trends and forest conservation achieved through transfers of development rights (NOTE: This seems redundant with the material in #3 above. Is this needed here?) to meet the requirements of section 3 above.
 - ~~C. Allocation of program revenue to participating jurisdictions, based on actual development right transfers and conservation easements accomplished. (NOTE: This seems redundant with the material in #4 above. Is this needed here?)~~
 - ~~D. Means for ensuring that jurisdictions acting to advance forest conservation through TDR be prioritized for the State's limited infrastructure resources. (NOTE: Should this be included instead as a footnote, to indicate that developing recommendations for this kind of additional incentive is under the jurisdiction of the state's TDR working group?)~~
7. The State should establish a statewide forest conversion baseline and conduct monitoring of forest conversions emissions that takes into account county-specific conversion rates and risks and continue to monitor forest emissions over time. If the statewide forest conversion monitoring does not indicate an overall reduction in forest conversion trends over a trial period (e.g. 10 to 15 years) as a result of this program the carbon offset/credit elements of the Transfer of Development Rights program may be terminated or modified and improved or other policy tools explored.
- ~~8. 8.~~ For the purposes of this offset program, emission reduction credits will be awarded solely through voluntary, market-based transfers of development rights. Participating jurisdictions will not receive credits for emission reductions achieved through regulations that devalue property.

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8.9. The Forest Sector Workgroup endorses other elements of the pilot Transfer of Development Rights program being developed pursuant to RCW 43.362.020, that are consistent with the forestry carbon provisions of these recommendations.